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**Filed** : **July 28, 2003**

### **AMENDMENTS TO THE DRAWINGS**

New FIGS. 3A-1 and 3A-2 are attached hereto in the Appendix. New FIGS. 3A-1 and 3A-2 show a first lens support being configured to allow a first lens to pivot relative to the frame between at least first and second positions (shown in FIGS. 3A-1 and 3A-2, respectively), wherein the lens provides a first magnitude of light attenuation when the first lens is in a first position and less light attenuation when the first lens is pivoted to the second position. No new matter is added with the new figures.

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### REMARKS

Applicants thank the Examiner for his careful and thoughtful examination of the present Application. By way of summary, Claims 14-33 were pending. With the present Response, Claims 14 and 22 are amended and Claims 34-50 are added; therefore, Claims 14-50 remain pending for consideration. Applicants reserve the right to pursue previous versions of the amended claims in future patent applications. In response to the Office Action mailed August 3, 2006, Applicants respectfully request the Examiner to reconsider the above-captioned Application in view of the enclosed comments and amendments.

#### The Drawings Comply With MPEP § 608.02(d)

The Office Action objected to the drawings for failing to show “the first lens to pivot relative to the frame between at least first and second positions, wherein the lens provides a first magnitude of light attenuation when the first lens is in a first position and less light attenuation when the first lens is pivoted to the second position.” Office Action of August 3, 2006, page 2. New FIGS. 3A-1 and 3A-2 have been added in the attached Appendix to illustrate the language quoted above.

For example, FIGS. 3A-1 and 3A-2 show “the first lens [49] to pivot relative to the frame [51] between at least first and second positions [55, 57], wherein the lens [44] provides a first magnitude of light attenuation [A’] when the first lens [49] is in a first position [55] and less light attenuation [A’] when the first lens [49] is pivoted to the second position [57].” However, although the foregoing discussion describes the language of the claim with respect to one particular embodiment, other embodiments are clearly applicable as well. The claims should not be construed to read only upon the exemplary embodiment discussed above.

The drawing amendments are supported throughout the originally-filed specification. For example, at paragraph no. [0055] the originally filed specification states:

Preferably, the lenses 44, 46 are configured to provide variable light attenuation. For example, each of the lenses 44, 46 can comprise a pair of stacked polarized lenses, with one of the pair being rotatable relative to the other. For example, each lens of the stacked pairs can comprise an iodine stained polarizing element. By rotating one lens relative to the other, the alignment of the polar directions of the lenses changes, thereby changing the amount of light that can pass through the pair. U.S. Patent No. 2,237,567

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discloses iodine stained polarizers and is hereby expressly incorporated herein by reference. Additionally, rotatable lens designs are disclosed in U.S. Patent No. 4,149,780, which is hereby expressly incorporated herein by reference.

Accordingly, Applicants respectfully submit that no new matter is introduced by the proposed drawings. Therefore, Applicants request the Examiner to enter new FIGS. 3A-1 and 3A-2, and to withdraw the objection to the drawings.

**The Applied Combination of Swab, et al./Bylander Does Not Make Obvious Claims 14-21**

Claims 14-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,769,767 to Swab; et al. in view of U.S. Patent No. 5,654,786 to Bylander. Applicants respectfully traverse the rejection.

Claim 14 has been amended to recite: an eyeglass, comprising: a frame, wherein the frame is configured to support at least one lens in a user's field of view when worn by the user; the frame comprising: at least one speaker support, wherein the at least one speaker support is coupled to the frame with a coupling; and a speaker supported by the at least one speaker support, wherein the coupling is configured such that the speaker may be pivoted over a predetermined distance with respect to the frame to position the speaker adjacent the user's ear when worn by the user; and at least one interactive electronic device supported by the frame; and at least one lens configured to have variable light attenuation supported by the frame.

Neither Swab, Bylander, nor their combination, teaches or suggests, among other things, a frame having a speaker support coupled to the frame with a coupling and a speaker supported by the speaker support, wherein the coupling is configured such that the speaker may be pivoted over a predetermined distance with respect to the frame to position the speaker adjacent the user's ear when worn by the user.

For at least this reason alone, Claim 14 is patentable over the cited art. In addition, Claim 14 is also patentable because the Office Action fails to articulate a proper motivation to combine the Swab and Bylander references, and because there is no motivation to combine the Swab and Bylander references. Finally, there is no indicated likelihood of success in combining the cited references.

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Claims 15-21, which depend from Claim 14, are therefore allowable for at least the same reasons. In addition, Claims 15-21 are patentable for the unique combination of features recited therein. Applicants respectfully request withdrawal of the rejection of these claims.

**The Applied Combination of Swab et al./Young Does Not Make Obvious Claims 14-33**

Claims 14-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Swab et al. in view of U.S. Patent No. 4,149,780 to Young. Applicants respectfully traverse the present rejection.

With respect to Claim 14, neither Swab, Young, nor their combination, teaches or suggests, among other things, a frame having a speaker support coupled to the frame with a coupling and a speaker supported by the speaker support, wherein the coupling is configured such that the speaker may be pivoted over a predetermined distance with respect to the frame to position the speaker adjacent the user's ear when worn by the user.

In addition, Claim 22 has been amended to recite: an eyeglass comprising: an interactive audio device, at least a first lens, a frame supporting the interactive audio device, the frame including at least a first lens support supporting the first lens, the first lens support being configured to allow the first lens to pivot relative to the frame between at least first and second positions, wherein the lens provides a first magnitude of light attenuation when the first lens is in a first position and less light attenuation when the first lens is pivoted to the second position; and at least one speaker supported by the frame with a speaker support, wherein the speaker support is configured to allow the speaker to be pivoted over a predetermined distance with respect to the frame to position the speaker adjacent the user's ear when worn by the user.

Neither Swab, Young, nor their combination, teaches or suggests, among other things, a speaker supported by the frame with a speaker support, wherein the speaker support is configured to allow the speaker to be pivoted over a predetermined distance with respect to the frame to position the speaker adjacent the user's ear when worn by the user.

For at least these reasons alone, Claims 14 and 22 are patentable over the cited art. In addition, Claims 14 and 22 are also patentable because the Office Action fails to articulate a proper motivation to combine the Swab and Young references, and because there is no

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motivation to combine the Swab and Young references. Finally, there is no indicated likelihood of success in combining the cited references.

Claims 15-21, 30, and 31, which depend from Claim 14, and Claims 23-29, 32, and 33, which depend from Claim 22, are therefore allowable for at least the same reasons. In addition, Claims 15-21 and 23-33 are patentable for the unique combination of elements recited therein. Applicants respectfully request withdrawal of the rejection of these claims.

**New Claims 34-50 Are Patentable Over The Cited Art**

With the present Response, new Claims 34-50 are added. Claims 34-50 are fully supported by the original disclosure, and no new matter is introduced with these claims. Claims 34 and 35 depend from Claim 14, and Claims 36 and 37 depend from Claim 22; therefore, for at least the reasons provided above, Claims 34-37 are also patentable over the cited art. In addition, Claims 34-37 are patentable for the unique combination of features recited therein.

For example, Claims 35 and 40 recite an eyeglass further comprising a printed circuit board supported by the frame, wherein an electrical conduit extends from the speaker through the speaker support and frame to the printed circuit board when the eyeglass is worn by the user. None of the cited art teaches or suggests this feature. Therefore, for at least this reason as well, Claims 35 and 40 are patentable over the cited art.

Claim 38 describes an eyeglass comprising: a frame configured to support at least one lens in a user's field of view when worn by the user, the frame having at least a first ear stem and a second ear stem; at least one lens supported by the frame, the at least one lens comprising at least one variable light attenuation assembly configured to change its attenuation of visible light in accordance with an electronic control signal; at least first and second speakers supported by the frame such that the first speaker can be positioned adjacent to a first ear of the user and the second speaker can be positioned adjacent to a second ear of the user when worn by the user; at least one button supported by the frame, wherein the button is configured to allow the user to actuate the button; a wireless transceiver supported by the frame, wherein the wireless transceiver is configured to wirelessly receive a first wireless signal from a source and to wirelessly transmit a second wireless signal, wherein the wireless transceiver is configured to output a transceiver output signal based upon the first wireless signal; an interface supported by the frame, wherein

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the interface is configured to receive the transceiver output signal and provide a speaker signal to at least the first speaker, wherein the speaker signal comprises an analog signal that corresponds to the transceiver output signal; and a power supply, carried by the frame, wherein the power supply is configured to provide electrical power to the eyeglass.

None of the cited art alone or in combination teaches the combination of features described in Claim 38. Therefore, Claim 38 is patentable over the cited art. Claims 39-50 depend from Claim 38 and are therefore patentable as well. In addition, Claims 39-50 are patentable for the unique combination of features recited therein.

**Request For Telephone Interview**

In view of the forgoing, the Application is in condition for allowance, and such allowance is respectfully requested. If further issues remain to be resolved, Applicants' undersigned attorney of record hereby formally requests a telephone interview with the Examiner. Applicants' attorney can be reached directly at (949) 721-7608 or at the number provided below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: \_\_\_\_\_

November 3, 2006

By: \_\_\_\_\_



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